

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 253 be amended to read as follows:

- 1 Page 3, between lines 30 and 31, begin a new paragraph and insert:
2 "SECTION 4. IC 14-28-1-22 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. (a) As used in
4 subsection (b)(1) with respect to a stream, "total length" means the
5 length of the stream, expressed in miles, from the confluence of the
6 stream with the receiving stream to the upstream or headward extremity
7 of the stream, as indicated by the solid or dashed, blue or purple line
8 depicting the stream on the most current edition of the seven and
9 one-half (7 1/2) minute topographic quadrangle map published by the
10 United States Geological Survey, measured along the meanders of the
11 stream as depicted on the map.
12 (b) This section does not apply to the following:
13 (1) A reconstruction or maintenance project (as defined in
14 IC 36-9-27) on a stream or an open regulated drain if the total
15 length of the stream or open drain is not more than ten (10) miles.
16 (2) A construction or reconstruction project on a state or county
17 highway bridge in a rural area that crosses a stream having an
18 upstream drainage area of not more than fifty (50) square miles
19 and the relocation of utility lines associated with the construction
20 or reconstruction project if confined to an area not more than one
21 hundred (100) feet from the limits of the highway construction
22 right-of-way.
23 (3) The performance of an activity described in subsection (c)(1)
24 or (c)(2) by a surface coal mining operation that is operated under
25 a permit issued under IC 14-34.

(4) Any other activity that is determined by the commission, according to rules adopted under IC 4-22-2, to pose not more than a minimal threat to floodway areas.

(5) An activity in a boundary river floodway to which section 26.5 of this chapter applies.

(c) A person who desires to:

(1) erect, make, use, or maintain a structure, an obstruction, a deposit, or an excavation; or

(2) suffer or permit a structure, an obstruction, a deposit, or an excavation to be erected, made, used, or maintained;

in or on a floodway must file with the director a verified written application for a permit accompanied by a nonrefundable fee of two hundred dollars (\$200).

(d) The application for a permit must set forth the material facts together with plans and specifications for the structure, obstruction, deposit, or excavation.

(e) An applicant must receive a permit from the director for the work before beginning construction. The director shall issue a permit only if:

(1) the director considers:

(A) the overall effect on the floodway that has resulted or could result from all significant actions that any person:

(i) has taken;

(ii) is taking; or

(iii) can reasonably be expected to take;

that had an effect or will potentially have an effect described in subdivision (2)(A) through (2)(C); and

(B) that significant effects can result from individually minor but collectively significant actions that occur over time; and

(2) in the opinion of the director, after taking into account the considerations set forth in subdivision (1), the applicant has clearly proven that the structure, obstruction, deposit, or excavation will not do any of the following:

~~(1)~~ **(A)** Adversely affect the efficiency of or unduly restrict the capacity of the floodway.

~~(2)~~ **(B)** Constitute an unreasonable hazard to the safety of life or property.

~~(3)~~ **(C)** Result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

~~(f) In deciding whether to issue a permit under this section, the director shall consider the cumulative effects of the structure, obstruction, deposit, or excavation. The director may incorporate in and make a part of an order of authorization conditions and restrictions that the director considers necessary for the purposes of this chapter.~~

(g) A permit issued under this section:

(1) is void if construction is not commenced within two (2) years after the issuance of the permit; and

- 1 (2) to:
- 2 (A) the Indiana department of transportation or a county
- 3 highway department if there is any federal funding for the
- 4 project; or
- 5 (B) an electric utility for the construction of a power
- 6 generating facility;
- 7 is valid for five (5) years from the date of issuance and remains
- 8 valid indefinitely if construction is commenced within five (5)
- 9 years after the permit is issued.
- 10 (h) The director shall send a copy of each permit issued under this
- 11 section to each river basin commission organized under:
- 12 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or
- 13 (2) IC 14-30-1 or IC 36-7-6 (before its repeal);
- 14 that is affected.
- 15 (i) The permit holder shall post and maintain a permit issued under
- 16 this section at the authorized site.
- 17 (j) For the purposes of this chapter, the lowest floor of a building,
- 18 including a residence or abode, that is to be constructed or
- 19 reconstructed in the one hundred (100) year floodplain of an area
- 20 protected by a levee that is:
- 21 (1) inspected; and
- 22 (2) found to be in good or excellent condition;
- 23 by the United States Army Corps of Engineers shall not be lower than
- 24 the one hundred (100) year frequency flood elevation plus one (1) foot.
- 25 SECTION 5. IC 14-28-1-27 IS AMENDED TO READ AS
- 26 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) Except as
- 27 provided in subsection (b), this section does not apply to the following:
- 28 (1) A person using chemicals in a normal manner in the
- 29 production of agricultural products.
- 30 (2) A person acting in accordance with an appropriate permit
- 31 issued by the director.
- 32 (3) A person acting in accordance with a permit issued by the
- 33 department of environmental management under water pollution
- 34 control laws (as defined in IC 13-11-2-261) or environmental
- 35 management laws (as defined in IC 13-11-2-71).
- 36 (b) This section applies to the permitting requirements set forth in
- 37 the following:
- 38 (1) Section 22 of this chapter.
- 39 (2) IC 14-26-2.
- 40 (c) A person may not put, throw, dump, or leave a contaminant,
- 41 garbage, or solid waste:
- 42 (1) in, upon, or within fifteen (15) feet of a lake; or
- 43 (2) in or upon a floodway.
- 44 **(d) A person may not place coal combustion wastes or**
- 45 **byproducts in a floodway as fill or for the purposes of bank**
- 46 **stabilization."**

47 Renumber all SECTIONS consecutively.

(Reference is to ESB 253 as printed February 14, 2006.)

Representative Orentlicher